Dear Jim, 1-/28/73

The Federal Rules of Appellate Procedure, No. 35, provide at least one and I think more than one basis for a "Suggestion For a Rehearing En Banc" and for other possibilities we can go into detail on when you are here Tuesday.

(a)(2), "when the proceeding involves a question of exceptional importance."

I'd like them to decide whether or not it is of "exceptional importance" if they are the victims of perjury and its subornation and whether the court below was.

(a)(1) provides this also, but I think we should stay far away from asking them to "maintain uniformity" in their FOI decisions!

The conclusion of (c) is interesting. If Kaufman meant in footnote 5 what I think he did of if he is put out, he might invoke this right to make them record themselves if they grant a rehearing.

As I read (c) it does not tell anything.